

TOWN OF MANSFIELD
Ethics Board
Thursday, September 17, 2009
Audrey Beck Municipal Building, Conference Room C
4:30pm

Minutes

Members Present: David Ferrero, Nancy Cox, Win Smith, Nora Stevens, Saul Nesselroth, Lena Barry

Staff Present: Maria Capriola, Assistant to Town Manager

I. PUBLIC COMMENT

Ms. Elizabeth Wassmundt, Old Turnpike Road, spoke to a provision in the Windham Ethics Code in which Council members or advisory committee members that miss three or more consecutive meetings without good cause must resign their post; she spoke to her desire to see such a provision in the Board's recommended revisions to the Code.

II. EXECUTIVE SESSION – PERSONNEL

Ms. Cox made a motion, seconded by Mr. Smith to add an executive session to their agenda and to enter into executive session. The motion was unanimously approved by the Board. The Board respectfully requested Ms. Capriola to be present to assist with technical advice on the matters to be discussed. Ferrero, Cox, Smith, Stevens, Nesselroth, Barry and Capriola were present. Mr. Smith made a motion, seconded by Mr. Ferrero to leave executive session (5:07pm); the motion was unanimously approved by the Board.

V. DISCUSSION ON ETHICS CODE

The Board continued to review and discuss Ms. Cox's suggestions regarding the Ethics Code. Recommended changes and pending items for further discussion are attached to these minutes. At the 9/17 meeting the following decisions were made:

- The Board did not recommend adding a provision to the Code about a process for vetting potential Ethics Board members. Through consensus the Board decided to make a recommendation to the Committee on Committees regarding the vetting process for Ethics Board members. The Board agreed that it would like to see a more thorough vetting process include some sort of resume and qualifications review (by the Committee on Committees) of potential Board members as well as a credit and criminal background check. The Board asked Ms. Capriola to draft a memorandum to the Committee on Committees for the Board's signature (based upon discussion on the matter); it will be reviewed and discussed at the October 15th meeting.
- Ms. Cox made a motion, seconded by Mr. Smith to add the following recommendation to 25-6 of the code, "The provisions of this Code will be reviewed and updated when necessary, but not less than every five years." All voted in favor of the motion.
- Through consensus the Board agreed to recommend adding language to 25-6 of the code that would include certain ethics documents subject to disclosure and public inspection being maintained in the Town Clerk's Office.
- Mr. Smith made a motion, seconded by Ms. Cox to remove and not include any recommendation that would permit "inquiries" under the Code of Ethics. All voted in favor of the motion.

- Through consensus the Board agreed to recommend the first sentence of 25-7A to read, "Advisory opinions may be sought by an official, employee, or body of the town regarding whether his, her, or its own action might violate a provision of this code."
- Through consensus the Board agreed to recommend adding language regarding waivers to 25-7E of the Code.
- Through consensus the Board agreed to recommend adding language regarding annual training offered by the Ethics Board to 25-9 of the Code.

The Board asked Ms. Capriola to prepare a polished version of its proposed recommendations for review at its next meeting. The Board also requested Ms. Capriola to prepare a draft annual disclosure statement form.

VI. FUTURE AGENDAS

The Board requested for the following to be added to the agenda for the next meeting: Recommendation to Committee on Committees re: Vetting Ethics Board Members; Discussion on Ethics Code; Executive Session.

The Board briefly discussed Ms. Wassmundt's remarks during public comment; the Board noted that she has previously spoken to the Board on the matter. However, the Board through consensus decided that it did not feel the need to discuss the matter further and it would not be included as a future agenda item.

VII. MEETING SCHEDULE

The next meeting will be held October 15th, 2009 at 4:30pm

VII.ADJOURNMENT

The meeting adjourned at 6:45 pm.

Respectfully Submitted,
Maria E. Capriola,
Assistant to Town Manager

Chapter 25: **ETHICS**, CODE OF

Notes on Recommended Changes Decided Up To the 9/17/09 meeting:

- **Strikethrough** = recommended deletions reached by consensus or majority of members
- **Bold/Italics** = recommended revisions by consensus or majority of members
- **Comment boxes** indicate items for further discussion

[HISTORY: Adopted by the Town Council of the Town of Mansfield 6-26-1995, effective 8-7-1995. Amendments noted where applicable.]

§ 25-1. Title.

This chapter shall be known and may be cited as the "Code of **Ethics**."

§ 25-2. Purpose.

- A. The purpose of these standards is to guide town officials, elected and appointed, town employees and citizens by establishing standards of conduct. ~~for persons in the decisionmaking process.~~ It is intended to strengthen the tradition of **good** government in the town.
- B. Good government depends on decisions which are based upon the merits of the issue and are in the best interests of the town as a whole, without regard to personal gain.
- C. In pursuit of that goal, these standards are provided to aid those involved in decisionmaking to act in accordance with the public interest, use objective judgment, assure accountability, provide democratic leadership and uphold the respectability of the government.

§ 25-3. Definitions.

As used in this chapter, the following words or phrases shall have the meanings ascribed to them in this section:

- A. **APPEAR**— *Any form of communication including: in person, through another person, by letter, by telephone or by electronic media.*
- B. **CONFIDENTIAL INFORMATION** — ~~Any information concerning the property, business or affairs of the town not generally available to the public. not discloseable under or subject to FOI rules (chapter 14, § 1-210 C.G.S.)~~ *Any information, whether transmitted orally or in writing, which is obtained by reason of the public position or office held and is of such a nature that it is not, at the time of transmission, a matter of public record or public knowledge*

as defined by Chapter 14, § 1-210 C.G.S.

C.

CONFLICT OF INTEREST - *An official or employee may not use his or her position/office in a manner which he or she knows may result in a personal or financial benefit, not shared with a substantial segment of the town's population, for any of the following:*

- (1) himself or herself;*
- (2) a member of his or her household;*
- (3) an outside employer/business of his or hers, or of a member of his or her household;*
- (4) a customer or client;*
- (5) person or entity from whom the official has received an election campaign contribution totaling more than \$200 in the aggregate during the past election cycle (this amount includes contributions from a person's immediate family or business);*
- (6) a substantial debtor or creditor of his or hers, or of members of his or her household; or*
- (7) a nongovernmental civic group, union, social, charitable, or religious organization of which he or she (or a member of his or her household) is an officer or director.*

EMPLOYEE — Any person receiving a salary, wages or compensation from the

D. town for services rendered.

E. IMMEDIATE FAMILY — Any parent, brother, sister, child spouse or co-habiting partner of an individual as well as the parent, brother, sister or child of said spouse or co-habiting partner, and the spouse or co-habiting partner of any such child or any dependent relative who resides in said individual's household.

INTEREST IN A PERSONAL OR FINANCIAL SENSE — *A relationship in which a*

F. *direct or indirect personal or financial benefit might be received. "Financial benefit" includes: money, service, entertainment, or any promise of these or anything else of value. This term does not include campaign contributions authorized by law.*

For the purpose of this Code, the same meaning as the courts of this state apply, from time to time, to the same phrase as used in §§ 8-11 and 8-21, C.G.S. 2.

G. OFFICIAL — Any person holding elective or appointive town office, paid or unpaid, including members and alternate members of town agencies, boards and commissions, and committees appointed to oversee the construction or improvement of town facilities, or any other board, commission or agency that perform legislative or judicial functions or exercise financial authority (collectively hereinafter referred to as "body"). **"Official or employee" does not include a judge, justice, or official or employee of the court system.**

H.

OUTSIDE EMPLOYER OR BUSINESS—This term includes: any substantial business activity other than service to the town; any entity of which the official/employee is a member, official, or employee, and from which he or she receives compensation; any entity located in the town or which does business with the town, in which the official/employee has an ownership interest; and any entity to which the official or employee owes, or is owed, more than \$10,000. For purposes of this definition, "compensation" does not include

I. reimbursement for expenses.

SUBORDINATE--Another official/employee whose activities an official or employee directs/supervises.

§ 25-4. Guidelines established.

If an official or employee is speaking before a body as an elector during public comment, said person shall disclose their name, address, and public affiliation, regardless of whether the affiliation is indirect or direct to the matter in which the person is speaking.

A. Use of town assets. No official or employee shall use or permit the use of town funds, services, property, equipment, owned or leased vehicles or materials for personal convenience or profit, except when such services are available to the public generally or are provided in conformance with established **written** town policies for the use of such officials or employees. **This applies not only to objects such as cars and trucks, but also to travel and other expense reimbursements, which may not be spent on anything but official business.**

B. Fair and equal treatment.

(1) **Special Consideration--**No official or employee shall grant or accept any special consideration, treatment or advantage to or from any person beyond that which is available to every other person.

(2) **Representation--**An official/employee may not represent any other person or entity before the town, nor appear in any matter not before the town, but against the interests of the town. However, it is acceptable for elected officials to represent constituents without compensation in matters of public advocacy. Volunteer members of established boards and commissions may represent persons and entities before, or appear before, any town department, agency, board, or commission other than their own.

(3) **Appearances--**An official or employee may not appear before any town department, agency, board or commission, except on his or her own behalf or on behalf of the town. Every time an official or employee appears or when he or she writes a letter to the editor or other publicly distributed correspondence regarding the Town, he or she is required to disclose whether he or she is appearing in an official capacity or as a private

citizen. If the speech or writing is in response to criticism or other communication directed at his or her official role, the official/employee may respond only in his or her official role.

- (4) Political Solicitation--An official/employee may not request, or authorize anyone else to request, that any subordinate participate in an election campaign or make a political contribution. Nor may he or she engage in any political activity while on duty for the town, or with the use of town funds, supplies, vehicles, or facilities.***
- (5) Patronage--No official or employee may use his or her influence to obtain an appointment of another person to any position as a reward for political activity or contribution.***
- (6) Nepotism--No official or employee may appoint or hire a member of his or her household to any type of employment with the town without first obtaining a waiver pursuant to 25-7E. No official or employee may supervise or be in a direct line of supervision a member of his or her household.***

C. Conflict of interest.

- (1) Disqualification in matters involving a personal or financial interest. No employee or official shall participate in the hearing or decision of the body of which he or she is a member upon any matter in which he or she is interested in a personal or financial sense. The fact of such disqualification shall be entered on the records of such body. Nothing contained herein shall be construed as to prevent any elected official or employee from submitting a competitive sealed bid in response to an invitation to bid from any body of the town, provided that such person does not thereby violate Subsection C(2) of this section.
- (2) Disclosure of confidential information. No official or employee shall disclose or use any confidential information obtained in an official capacity for the purpose of advancing his or her financial or personal interest or that of others.
- (3) Gifts and favors. No official or employee or member of his or her immediate family shall solicit or accept any gift or gifts having a value of fifty dollars (\$50.) or more ~~in value~~ in any calendar year, whether in the form of service, loan, thing, promise or any other form, from any person or persons who to his or her knowledge is interested directly or indirectly in business dealings with the town. This prohibition shall not apply to lawful political contributors as defined in § 9-333(b), C.G.S. ***Gifts of property, money, or services received by an official or employee and given nominally to the town must be accepted by a resolution of the council.***
- (4) Use of influence. No official or employee ~~shall solicit any business~~ ***may engage in a financial transaction including charitable contributions,***

directly or indirectly, from another official or employee **especially one** over whom he/**she** has any direct or indirect control or influence with respect to tenure, compensation or duties. **Charitable events or fundraising activities subject to general sponsorship by the Town are exempted from this section .**

- (5) Representation of private or adverse interest. No official or employee shall appear on behalf of a private interest before any body of the town, nor shall he or she represent an adverse interest in any litigation involving the town.
- (6) Disclosure of interest. Any official or employee who has a personal or financial interest in any matter coming before any body of the town shall make the same known to such body ~~in a timely manner~~ **immediately before any action.** and Such interest shall be disclosed on the records of such body.

a. Annual Disclosure. Elected officials, department heads and those authorized to act on their behalf (e.g., first deputies), candidates for elected office and political party committee officers are required to file annual disclosure statements. Annual disclosure statements (for the calendar year) are to be filed with the Ethics Board:

- i. Within one-hundred-and-twenty days after the effective date of this section;**
- ii. Within thirty days after taking one of the job titles or positions listed in subsection a of this section; and**
- iii. No later than May 15 of each year thereafter**
- iv. Candidates for elected office, shall file the annual disclosure statement with their filing of the certificate of candidacy or declaration of intent and no later than May 15 of each year thereafter.**

The annual disclosure statement will include the location of any real estate in the town, or within one mile of the boundary of the town, in which the person disclosing, or his or her immediate relative, has a financial interest, and the type of financial interest. This section does not apply to an official or employee's primary residence.

The disclosure statement will also include with respect to each outside employer or business of the person disclosing: its name (if any); the nature of its business or if it is an entity, the type of entity; the person disclosing's relationship to it, such as sole proprietor, owner, partner, official, director, member, employee, bondholder, or shareholder.

The disclosure statement will also include the names and addresses of all relatives employed by the town as employees, contractors, or consultants, including relatives* who work for or are subcontractors of

contractors, consultants*, or subcontractors.

Failure to disclose the information with respect to a person disclosing's spouse or other relative does not constitute a violation of that subsection if the person disclosing made a good faith effort to obtain the information.

b. Recusal

i. An official or employee must refrain from acting on or discussing a matter before the town, if acting on the matter, or failing to act on the matter, may result in personal or financial benefit. Such an official or employee should join the public if the recusal occurs at a public meeting, leave the room if it is not a public meeting, file with the Town Clerk a signed statement disclosing the reasons for recusal, or state this information on the public record of that board or commission.

ii. If a board or agency member is requested to recuse himself or herself with respect to a matter because he or she has a conflict of interest, the member must decide whether to recuse himself or herself. If the member decides not to recuse himself or herself, the remaining must consider any relevant evidence concerning such claimed conflict of interest, as defined in this code, and vote whether or not to allow the request and require that the member refrain from participating in the matter.

iii. Rule of Necessity: If recusal would leave a board with less than a quorum capable of acting, or if the official/employee is the only person authorized by law to act, the official/employee must disclose the nature and circumstances of the conflict to the Ethics Commission and ask for an advisory opinion.

(7) First year after termination. No official or employee shall, ~~during the first~~ **within one** year after ~~termination of his or her last date of~~ service or employment with the town, appear before any body of the town or apply to any department in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under his or her ~~active consideration~~ **official responsibility as a municipal employee.**

(8) **First Year of Employment. No official or employee shall award a contract or participate in an action benefiting a person that formerly employed him or her within one year of entering Town employment or service.**

- (9) ***Private employment.*** No official or employee shall engage in or accept private employment or render service that is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of official duties or give the appearance of impropriety, unless otherwise permitted by law.
 - (10) ***Post-Employment Employment.*** Any official/employee shall not accept employment with a party to a contract with the town, within a year after the contract was signed, when he or she participated substantially in the negotiation or award a contract of \$50,000 or more.
 - (11) ***Quid Pro Quo.*** No official or employee shall discuss or accept an offer of future employment with any person doing or seeking to do business with the town if the official or employee has reason to believe that the offer of employment is intended as reward for an action or failure to act.
 - (12) ***Fees and Honorariums.*** No official or employee may accept a fee or honorarium for an article, appearance, or speech in his or her official capacity. He or she may receive payment or reimbursement for necessary expenses related to any such activity.
- D.
- (13) ***Endorsements.*** No official or employee in his or her official capacity may publicly endorse products or services; this does not prohibit an official or employee from answering inquiries by other governmental officials, consumer organizations, or product information services regarding products or services.

Reporting Requirements and Whistleblower Provisions.

- (1) ***Complicity with or Knowledge of Others' Violations.*** No one may encourage anyone to violate any provision of this code. If an official/employee suspects that someone has violated this code, he or she is required to report it to the relevant individual, either the employee's supervisor, appointing authority, or the Ethics Board. Anyone who reports a violation in good faith will be protected by the provisions of Section 2.
- (2) ***Whistle-Blower Protection.*** Neither the town nor any person, including officials and employees, may take or threaten to take official or personal action against any official, employee, or against any member of their family because that person, or a person acting on his or her behalf, (a) reports or files a complaint with the Ethics Board regarding an alleged violation of this code, or (b) is requested by the Ethics Board to participate in an investigation, hearing, or inquiry of the Ethics Board. The provisions of this section are not applicable when the reporter of a violation knowingly made accusations or other statements that were malicious and

false.

§ 25-5. Board of **Ethics**.

- A. There is hereby established a Board of **Ethics** consisting of five (5) members who shall be electors of the town. The members shall be appointed by the Town Council and shall serve for a term of three (3) years, ~~except that, of the initial Board, two (2) members shall serve for a term of two (2) years, and one (1) member for a term of one (1) year.~~
- B. Alternate members. In addition to the regular members, the Town Council shall appoint two (2) alternate members who shall serve in the absence of a regular member. ~~The initial appointments shall be for a term to expire on June 30, 1996. Thereafter, all~~ **Alternate member** appointments shall be for two-year terms.
- C. No more than three (3) members and no more than one (1) alternate member shall be of the same political party at any time.
- D. ~~No member or alternate shall contemporaneously be an employee or official of the town on any other board.~~ **Members of the Board may also serve as members of advisory committees. Members of the Board should not simultaneously serve as a member of an elected board of the Town or be an employee of the Town.**

§ 25-6. Organization and procedure.

- A. The Board of **Ethics** shall elect a **Chair, Vice Chair, and Secretary annually. Rules and procedures shall be established. Confidentiality must be maintained in order to protect the privacy of public officials, employees and citizens, including the provisions of Sec 1-82(a)-(f) of the Connecticut General Statutes. The Board shall keep records of its meetings, planning to meet at least four times a year and at such other times as deemed necessary by any member.** ~~Chairperson and a Secretary and shall establish its own rules and procedures, which shall be available to any elector of the town through the Town Clerk's office. Rules and procedures shall be established within six (6) months of the initial appointment of all members and alternates. The need to maintain confidentiality in order to protect the privacy of public officials and employees and citizens [including the provisions of § 1-82a(a) through (f), C.G.S.] shall be considered when establishing the rules and procedures. The Board shall keep records of its meetings and shall hold meetings at the call of the Chairperson and at such other times as it may determine.~~
- B. **Practices regarding recordkeeping, release of documents, and notice of meetings will be consistent with Connecticut general statutes pertaining to freedom of information and ethics boards. The Town Clerk's Office must maintain on file for public inspection:**
 - (1) **A copy of the code of ethics and amendments thereto;**

- (2) ***A statement that the town has established an Ethics Board, and its members;***
- (3) ***A copy of the form of annual statement of financial disclosure;***
- (4) ***A list of the names and offices, or positions, of all officials and employees required to file annual disclosure statements;***
- (5) ***Copies of all annual disclosure statements filed pursuant to this code.***
- (6) ***Other records of the Ethics Board subject to disclosure.***

C. The provisions of this Code will be reviewed and updated when necessary, but not less than every five years.

§ 25-7. Powers and duties.

- A. ***Advisory Opinions.*** ***Advisory opinions may be sought by an official, employee, or body of the town regarding whether his, her, or its own action might violate a provision of this code.*** The Board may also issue guidelines on ~~such~~ **general ethics** issues ~~as, for example, ex parte communication.~~ Such opinions and guidelines, until amended or revoked, shall be binding on the Board and reliance upon them in good faith by any officer or employee in any action brought under the provisions of this chapter. Any request or opinion the disclosure of which invades the personal privacy [as that term is used in C.G.S. § 1-19(b)(2)] of any individual shall be kept confidential in a personnel or similar file and shall not be subject to public inspection or disclosure. The Board may make available to the public such advisory opinions which do not invade personal privacy. ~~and take other appropriate steps in an effort to increase public and officials' awareness of this Code of Ethics.~~
- B. ***Complaints.*** The Board shall establish procedures by which the public may initiate complaints alleging violations of this Code. The Board itself may also initiate such complaints. The Board shall have the power to hold hearings concerning the application of this Code and its violation and may administer oaths and compel attendance of witnesses by subpoena. Such hearings shall be closed to the public unless the respondent requests otherwise. If the Board determines the respondent has, in fact, violated the provisions of this Code, it shall file a memorandum of decision which may include a recommendation for action, with the Town Council or other appropriate body. The recommended action may include reprimand, public censure, termination or suspension of employment, removal or suspension from appointive office or termination of contractual status, except that no action may be recommended which would violate the provisions of the state or federal law. In the case of union employees, such recommended action does not constitute a unilateral change in conditions of employment. No such recommendation shall limit the authority of the Town Council under the Charter of the town or under any ordinance, statute or any other law. Any discussion by the Town Council or other body of an individual affected by the memorandum of decision shall be in executive session, unless the individual affected requests that such discussion be held in open session.
- C. Any complaint received by the Board must be in writing and signed under oath by the individual making said complaint, under penalty of false statement (C.G.S.

§ 53a-157b).

- D. Correspondence.** The Board welcomes and encourages communications from the public regarding ethics issues relevant to this code, even if they do not fall within the categories of an advisory opinion, inquiry, or complaint. Communications will be handled on a case-by-case basis and at the discretion of the Board. The Board will take appropriate steps in an effort to increase public and officials' awareness of this Code of Ethics.

Waivers. If an official or employee comes into a direct line of supervision of a

- E. member of his or her household, he or she will have six months to obtain a waiver.***

- (1) Upon written application and a showing of compelling need, at an open session after public notice, the Ethics Board may in exceptional circumstances grant a waiver of subsections 25-4B(6). Waiver applications should be submitted by the supervisor seeking the waiver.***
- (2) Waivers must be in writing and must state the grounds upon which they are granted. Within ten days after granting a waiver, the Ethics Board must publish a notice setting forth the name of the person or entity requesting the waiver and a general description of the nature of the waiver.***

§ 25-8. Annual report.

Each year, at a time to be determined by the Board, it shall prepare and submit to the Town Council an annual report of its actions during the preceding twelve (12) months and its recommendations, if any. Additional reports, opinions and recommendations may be submitted by the Board to the Town Council at any time. In all such submissions, the Board shall be scrupulous in its avoidance of the ~~undue~~ invasion of the personal privacy of any individual.

§ 25-9. Distribution of Code of **Ethics, Training**

A. Distribution of Code. In order that all public officials and employees are aware of what constitutes ethical conduct in the operations of the government of the Town of Mansfield, the ~~Town Clerk~~ **appropriate officials** shall cause a copy of this Code of **Ethics** to be distributed to each and every official.

B. Training and Education. ***The Ethics Board will hold an annual workshop for new and old officials and employees to discuss this code, its values and goals, its enforcement, and the ways in which it has affected their work and the working of the Town government.***

§ 25-10. Appeals.

A decision by the Board of **Ethics** may be appealed in the manner allowed by the general statutes.

§ 25-11. Severability; conflicts with other provisions.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter. Furthermore, should any such provisions of this chapter conflict with any provisions of the Personnel Rules of the Town of Mansfield, the collective bargaining agreements of the Town of Mansfield or the Connecticut General Statutes, the relevant provisions of the Personnel Rules, collective bargaining agreements and/or the Connecticut General Statutes shall prevail.